

NOTICE OF PROPOSED REGULATIONS
California Code of Regulations
Title 15, Crime Prevention and Corrections
Department of Corrections and Rehabilitation

NOTICE IS HEREBY GIVEN that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code (GC) Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058 and 5058.3, in order to implement, interpret and make specific PC section 5054, proposes to amend Sections 3044, 3190, 3282 and 3335, of the California Code of Regulations (CCR), Title 15, Division 3, concerning the development of a new housing designation; Non-Disciplinary Segregation. Incorporated by reference into these regulations is the Non-Disciplinary Segregation (NDS) Personal Property Matrix.

PUBLIC HEARING:

Date and Time: December 2, 2013 - 10:00 a.m. to 11:00 a.m.
Place: Department of Corrections and Rehabilitation
Kern Room
1515 S Street – North Building
Sacramento, CA 95811

Purpose: To receive comments about this action.

INFORMATIVE DIGEST

In this regulatory action, the Secretary proposes to amend regulatory provisions by identifying and defining Non-Disciplinary Segregation Inmates. The proposed regulations are intended to provide guidance and clarity to staff and inmates by identifying housing determinations and specific privileges afforded inmates designated with non-disciplinary segregation status.

This action provides the following:

- Amends Subsection 3044 by including language identifying “Non-Disciplinary Segregation (NDS)” and establishes clear direction for classifying specific privilege group designations and privileges for NDS inmates.
- Amends Section 3190 by adding new language to establish and incorporate by reference the Non-Disciplinary Segregation (NDS) Personal Property Matrix which identifies allowable personal property items and amounts for identified NDS inmates units to possess when housed in Administrative Segregation Units. The provisions for updating the NDS Personal Property Matrix when needed are also included in the new language.
- Amends Section 3282 by changing language to clarify inmate telephone privileges consistent with an inmate’s assigned privilege group.
- Amends Section 3335 by adding clear and concise language defining Non-Disciplinary Segregation and administrative reasons an inmate may be housed in segregated housing units.

POLICY STATEMENT OVERVIEW

The anticipated benefits of the proposed regulations will provide a consistent means of determining appropriate housing designations and privileges for inmates placed in Administrative Segregation Units (ASU) for non-disciplinary reasons. Currently, all inmates placed in ASU, regardless of the reason for placement, are afforded limited privileges based on the need to maintain safety and security of the institution. These regulations will afford identified inmates housed in ASU for administrative non-disciplinary reasons, privileges more consistent, but not identical, to their pre-segregation status. By incorporating by reference into these regulations the Non-Disciplinary Segregation (NDS) Personal Property Matrix (Rev. 8/14/13) the Department can achieve further standardization of allowable property an inmate can possess regardless of which institution they are housed. The Department believes that these regulations may promote continued rehabilitation and positive programming.

EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING STATE REGULATIONS

Pursuant to Government Code 11346.5(a)(3)(D), the Department must evaluate whether the proposed regulations are inconsistent or incompatible with existing State regulations. Pursuant to this evaluation, the Department has reviewed existing regulations pertaining to privileges, classification and property within CCR, Title 15, Division 3 and determined that these proposed regulations are not inconsistent or incompatible.

LOCAL MANDATES:

The Department has determined that these regulations do not impose a mandate on local agencies or school districts, or a mandate which requires reimbursement of costs or savings pursuant to Government Code Sections 17500 - 17630.

FISCAL IMPACT STATEMENT

- Cost to any local agency or school district that is required to be reimbursed: none
- Cost or savings to any state agency: none
- Other nondiscretionary cost or savings imposed on local agencies: none
- Cost or savings in federal funding to the State: none

SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESSES:

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states because they are not affected by the internal management of state prisons.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

RESULTS OF ECONOMIC IMPACT ASSESSMENT:

These regulations are directed at the internal management of State prisons and do not impose any obligations, duties, fees, costs, responsibilities, reporting requirements, etc. on California businesses, large or small. No economic impacts have been brought to the attention of the Department. The Department has therefore concluded that these regulations will have no impact on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California. Regarding benefits, these regulations will protect the health and safety of California residents, worker safety, and the State's environment by providing a safe environment that will encourage visitation for families, which will have a positive impact on inmates, and increase worker safety.

EFFECT ON SMALL BUSINESSES

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the internal management of state prisons.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

CONSIDERATION OF ALTERNATIVES

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

CONTACT PERSON:

Please direct any inquiries regarding this action to:
Timothy M. Lockwood, Chief
Regulation and Policy Management Branch
Department of Corrections and Rehabilitation
P.O. Box 942883, Sacramento, CA 94283-0001
Telephone (916) 445-2269

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

Anthony Carter
Regulation and Policy Management Branch
Telephone (916) 445-2220

Questions regarding the substance of the proposed regulatory action should be directed to:

Kelly Medina, Captain
Special Projects Team,
Division of Adult Institutions
(916) 650-0263

WRITTEN COMMENT PERIOD:

The public comment period will close December 2, 2013 at 5:00 p.m. Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action (by mail, by fax, or by e-mail) to CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at RPMB@cdcr.ca.gov before the close of the comment period.

AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:

The Department has prepared, and will make available, the text, any documents incorporated by reference, and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, documents incorporated by reference, and Notice of Proposed Regulations will also be made available on the Department's website <http://www.cdcr.ca.gov>.

INCORPORATION BY REFERENCE

The Non-Disciplinary Segregation Personal Property Matrix (Rev. 8/14/13) is incorporated by reference into these regulations and will be made available to the public along with the Notice of Proposed Regulations, Text of Proposed Regulations, and Initial Statement of Reasons.

AVAILABILITY OF CHANGES TO PROPOSED TEXT

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Following its preparation, a copy of the Final Statement of Reasons will be available on the Department's website at <http://www.cdcr.ca.gov>, and may also be obtained from the Department's contact person.